

CCA opinion on the compliance of the Forestry Act and subordinate forestry legislation with Competition Act

Class: 031-02/2010-01/171

Reg.no: 580-05-11-58-11

Done in Zagreb, 29 December 2011

The Croatian Competition Agency (CCA) issued pursuant to Article 25 paragraph 3 of the Competition Act (OG 79/09) which stipulates that the CCA issues expert opinions assessing the compliance of the existing laws and other legal acts with the Competition Act, opinions promoting competition culture and enhancing advocacy and raising awareness of competition law and policy and gives opinions and statements relating to the development of the comparative practice and case law in the area of competition law and policy to the authorities concerned.

Following a number of queries of undertakings and organizations of undertakings relating to issues concerning forest management and planning in the Republic of Croatia the CCA analysed the provisions of the Forestry Act (OG 140/05, 82/06, 129/08, 88/10 and 124/10) and the relevant bylaws regulating the matter in question.

The ex post assessment of the Forestry Act which investigated its compliance with competition rules indicated several competition concerns.

The CCA found that the revocation of the Forestry Consultancy Service (once in charge of forest management) and subsequent establishment of the limited liability company Hrvatske šume (Croatian Forests), which is the legal successor of the former, may raise competition concerns regarding the fact that Croatian Forests are at the same time the regulator in the forestry sector and the competitor in the market involving different works necessary for the efficient implementation of the national and local forestry policy.

Regardless of the legal form of the service, the CCA holds the view that as a public authority to which special powers have been assigned and, at the same time, a direct competitor in the forest management market, Croatian Forests does not act as a genuinely independent authority exercising its powers on a market-neutral basis (*Council Regulation (EC) 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) of 20 September 2005*).

Taking into account the importance of the forestry resources and the operations which must be carried out with the objective of maintenance and protection and improvement of the environment, the landscape and its features, natural resources, forests should be given specific attention. In accordance with the opinion of the CCA communicated to the competent ministry, it is necessary that these activities are managed by a genuinely independent authority with public remit, respecting the principles of transparency, proportionality and competition rules.